

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

---

IN RE PHARMACEUTICAL  
INDUSTRY AVERAGE  
WHOLESALE PRICE LITIGATION

---

)  
) MDL No.1456  
)  
) Master File No. 01-CV-12257-PBS  
) Subcategory No. 06-CV-11337-PBS  
)

THIS DOCUMENT RELATES TO:  
*U.S. of America ex rel. Ven-A-Care*  
*of the Florida Keys, Inc., et al. v.*  
*Boehringer Ingelheim Corporation, et al.,*  
Civil Action No. 07-10248-PBS

---

) Judge Patti B. Saris  
)  
) Magistrate Judge Marianne B. Bowler  
)  
)  
)

**THE ROXANE DEFENDANTS' UNOPPOSED MOTION  
FOR LEAVE TO FILE A REPLY IN SUPPORT OF THEIR MOTION  
FOR A FINDING OF SPOILIATION OF EVIDENCE AND FOR SANCTIONS**

Defendants Boehringer Ingelheim Roxane, Inc., Roxane Laboratories, Inc., Boehringer Ingelheim Corp., and Boehringer Ingelheim Pharmaceuticals, Inc. (collectively "Defendants") respectfully move the Court for leave to file a reply in support of their Motion for a Finding of Spoliation of Evidence and for Sanctions (Dkt. No. 6254). Defendants believe a reply memorandum, in response to the United States' Opposition to Defendants' Motion for a Finding of Spoliation and for Sanctions (Dkt. No. 6388), will assist in defining the issues requiring the Court's resolution. The United States does not oppose Defendants' request. A copy of the proposed brief is attached as Exhibit 1.

Dated: October 16, 2009

Respectfully submitted,

/s/ Eric T. Gortner

---

Helen E. Witt, P.C.

Anne M. Sidrys, P.C.

Eric T. Gortner

John W. Reale

KIRKLAND & ELLIS LLP

300 North LaSalle Street

Chicago, IL 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

*Counsel for Defendants*

*Boehringer Ingelheim Corp.,*

*Boehringer Ingelheim Pharmaceuticals, Inc.,*

*Boehringer Ingelheim Roxane, Inc., and*

*Roxane Laboratories, Inc.*

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on October 16, 2009, a copy to LexisNexis File and Serve for posting and notification to all parties.

/s/ Eric T. Gortner  
Eric T. Gortner